



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 4755 of 2023

Govind S/o Bhavsingh Ade

Versus

Seema Wd/o Ajay Chinnawar

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order
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Shri P.R.Agrawal, Advocate for the petitioner.

Shri S.D.Chande, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 8th MAY, 2024.

Heard.

2. The Order Below Exhibit 69 dated 3rd December, 2022 passed by the learned Joint Civil Judge (Junior Division), Umarkhed in Regular Civil Suit No. 102 of 2012, thereby rejecting the application for amendment under Order VI Rule 17 of the Code of Civil Procedure filed by the plaintiff, is under challenge in this writ petition.

3. In a suit for possession during the cross examination on the point of valuation certain questions were asked. Thereupon, the application Exhibit 58 was moved by the plaintiff for carrying out the valuation of the suit property.

4. Accordingly, the valuation was made which comes to Rs.16,18,627/-. Thus, in view that the amendment was sought.

5. Admittedly, the amendment is sought after the commencement of the trial. Thus, it is binding upon the applicant to plead due diligence.

6. As far as the amendment in respect of valuation which was carried out subsequently, more particularly the amendment sought by way of paragraph 2 of the application, it is justifiable even after the commencement of the trial. However, I am of the opinion that other paragraphs which are sought to be amended are not necessary for deciding the suit.

7. In the circumstances, considering the objection raised by the defendant that if the amendment to paragraph 10A, 13 and 13A is allowed, it would change the nature of the dispute, the impugned order is sustainable in respect of said amendment sought to paras 10A, 13 and 13A of the plaint.

8. However, as the amendment sought by way of paragraph 2 of the application, is necessary, the impugned order needs to be modified. Accordingly, the order dated 3rd December, 2022 passed below Exhibit 69 is hereby modified and the plaintiff is permitted to carry out the amendment as proposed in paragraph 2(A) and 2(B) of the application Exhibit 69.

9. Accordingly, the writ petition is disposed of.

[ANIL S. KILOR, J.]